



An
Bord
Pleanála

Inspector's Report

ABP-312062-21

Development	Provision of a Discount Foodstore Supermarket with ancillary off-licence sales. A Natura Impact Statement is submitted with the application.
Location	Circular Road , Tubbercurry , Co. Sligo (site of existing Henry Tyres Circular Road Tubbercurry Co. Sligo F91 CK49 & K. & B. Supplies Circular Road Tubbercurry Co. Sligo F91 FP82)
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	21263
Applicant(s)	Lidl Ireland GMBH.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Surlis's Supervalu.
Observer(s)	None.

Date of Site Inspection

22nd June 2022.

Inspector

Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a brownfield site located at Circular Road in Tubbercurry, Co Sligo. Tubbercurry is situated approximately 35km south of Sligo City and is the second most populated settlement in Sligo County. Circular road is part of the N17 National Primary Road acting as a type of inner ring road to the northwest of the town centre. The appeal site which is triangular in shape has a stated area of 1.33 hectares and is occupied by three retail warehouse buildings. Unit 1 is in use as a tyre centre and units 2-4 in use as a hardware store builder's provider. The site is bounded to the west by the disused Western Rail Corridor, by Circular Road to the south / southeast and by a residence with ancillary picture framing business and undeveloped backlands to the east. Opposite the site to the south-east are the backlands of Teeling Street with a number of mixed uses in the vicinity including two existing convenience retail units *Supervalu* and *Eurospar*.
- 1.2. Circular road is described within the Draft Tubbercurry Local Area Plan 2015-2021 as follows: *“Circular road is defined by the back walls, fences and mostly derelict outbuildings of properties which front onto Teeling Street on one side, and by vacant land and disjointed commercial warehouse buildings on the other. The road is lined with a combination of palisade fencing, random block walls and post-and-rail fencing. There is very limited active frontage onto the road and very little overlooking of public spaces. This is an area of the town which needs special attention and detailed planning in order to be effectively integrated into the existing urban environment.”*

2.0 Proposed Development

- 2.1. The proposal involves redevelopment of the site as follows:
- The demolition of the existing Henry Tyres (Unit No 1) and K & B Supplies (Units Nos 2-4) buildings and associated site clearance works;
 - Change of use and amalgamation of existing units no 5-7 (measuring c905sq.m) to builders providers and retail warehousing use, and associated and ancillary development and works;

- The construction of a single storey (with mono pitch roof and internal mezzanine plant deck) Licensed Discount Foodstore Supermarket with ancillary off licence sales measuring approximately 2,186sq.m gross floor space with a net retail sales area of 1,415sq.m;
- The provision of associated car parking and internal traffic and pedestrian circulation routes, free standing and building mounted signage, covered trolley bay, refrigeration and air condition plant and equipment compound, and ESB substation, roof mounted solar panels, public lighting, hard and soft landscaping, cycle parking, boundary treatments, new / relocated vehicular and pedestrian access, modification and extension of existing drainage, utility and services infrastructure and connections, and all other associated and ancillary development and works above and below ground level.”

2.2 The detailed nature of the proposal is set out in the accompanying documents which include

- A Natura Impact Statement by Inís Environmental Consultants Ltd.
- A Retail Impact Assessment by The Planning Partnership.
- Lighting Impact Assessment report by Lawler Consulting,
- Shading and Glint and Glare Analysis in respect of Solar PV Panelling by Lawler Consulting.
- Bat Report by Inís Environmental Consultants.
- Traffic and Transportation Assessment by Stephen Reid Consulting Traffic and Transportation
- Road Safety Audit by Traffico Limited on behalf of Stephen Reid Consulting Traffic and Transportation.
- Services Design Report SDS Design Engineers.

2.3 In response to a request for additional information details of alterations to proposed units 5-7 were outlined. Modifications were made to the layout to provide for

additional cycle spaces, 4 fully active EV charging points are proposed with ducting for future expansion to 27 spaces to provide for new generations of chargers on an incremental basis.

3.0 Planning Authority Decision

3.1. Decision

By order dated 4th November 2021 Sligo County Council issued notification of the decision to grant permission and this was subject to 17 conditions including condition 17 requiring payment of a development contribution €2,780 in accordance with the Development Contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial planner's report asserted that the principle of development is acceptable. County Development Plan retail strategy outlines a capacity of 1,251sq.m convenience retail space by 2023. Since the adoption of the retail strategy permission has been granted under 16/116 (Sligo) for a new foodstore which is operational a replacement food store under PL18/198 (Sligo) and a new supermarket in Tubbercurry (19/505). It is noted that 4.5.4 of the CDP states that potential for extending above the estimated requirements should be allowed for. A request for additional information was recommended and subsequently issued to the developer on 26th August 2021 in relation to the following:

- Shortfall of vehicular and cycle parking to be justified. Additional EV and cycle parking to be provide,
- Demonstrate compliance with national policy regarding Smarter Travel and promotion of the modal shift to public transport.
- Detail of material changes to proposed units 5-7 to be outlined.

3.2.1.2 Following submission of additional information, the planner's final report recommends permission subject to conditions as per subsequent decision.

3.2.2. Other Technical Reports

Acting Chief Fire Officer – Fire Safety Certificate will be required for this building.

Area Engineer –No objection subject to conditions.

Waste Enforcement Officer. – No objection subject to conditions..

3.3. Prescribed Bodies

3.3.1 Transport Infrastructure Ireland TII. The TII will rely on the planning authority to abide by official policy in relation to development on/affecting national roads. Development to be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit.

3.4. Third Party Observations

3.4.1 Submission from Brock McClure Planning and Development Consultants on behalf of the appellant Surlis's Supervalu, Teeling Street, Tubbercurry.

- Insufficient demand for an additional supermarket in the settlement of Tubbercurry.
- The scope for an additional retail supermarket in Tubbercurry will be addressed by the permitted expansion and relocation of Supervalu under Ref ref 19/505.
- Proposal will lead to increased town centre vacancy.
- Mixed use zoning and Objective UDO-7 of the Draft Tubbercurry LAP designates the site as opportune for redevelopment with mixed uses preferred. The proposal does not achieve the full potential of the site and does not provide an appropriate mix of uses.
- Proposal is piecemeal contrary to draft LAP which recommends a masterplan for the Circular road.
- Application is premature pending adoption of the LAP
- Traffic and parking issues.
- Inaccuracies within reports.

- NIS expresses concern regarding impact on Tubbercurry Stream, bats, frogs and otters. Bat study inadequate.

4.0 Planning History

On the appeal site.

00/919 Permission granted 12th February 2001 for construction of 7 no warehousing units unit 1 221.3sq.m unit 2 & 4 535.055sq.m each, unit 3 548sq.m and units 5, 6 & 7 295.23sq.m each and associated site works.

06/1026 Permission granted 28th February 2007 for change of use of existing unit no 1 (area 221.3sq.m) built under current planning ref Nr PL00/919 from a warehouse to car garage, incorporating car sales area, car wash and tyre changing facilities and all associated site works.

08/724 Retention permission granted 23 February 2009 for change of use of amalgamated units 2 & 3 from warehouse granted planning permission under PL 00/919 to retail warehouse in conjunction with a builders providers business (2) retention of currently site layout for car parking along with retention of finish to front boundary wall and modification of landscape layout for the site and to retain 2 windows on the rear elevation of unit 3.

Site to the north-east at the junction of Circular Road and Masshill Road.

19/505 Permission grated to Surlis's Supervalu Ltd 23 February 2021 for development consisting of demolition of two storey retail warehouse storage office building and retail development of 2,021 sq.m with two new entrances off Masshill road.

5.0 Policy Context

5.1. National Policy – Retail Planning Guidelines

5.1.1 The Department of the Environment issued Guidelines for Planning Authorities on Retail Planning in April 2012. They state that enhancing the vitality and viability of town centres through sequential development is an overarching objective in retail planning. There are five key policy objectives.

- Ensuring plan-led development.
- Promoting town centres through sequential development.
- Promoting a competitive marketplace.
- Encouraging sustainable travel by locating shops in locations accessible by such modes.
- Realising high quality urban design.

5.1.2 A design manual was published with the guidelines. Section 2.5.2 states that the preferred location for new retail development is within city and town centres and only then should edge of centre sites be considered. The manual also notes that compact urban areas mixed use and high densities increase the customer base for local shops and services and reduce the proportion of shopping trips made by car in favour of walking, cycling and public transport.

5.2. Development Plan

5.2.1 Within the Sligo County Development Plan 2017-2023, as varied, Tubbercurry is identified as a key support town. The plan states that key support towns must be consolidated and equipped with adequate infrastructure and with services required to respond to the needs of their own residents and those living in the surrounding rural areas. Strategic Settlement Policy SP-S-2 is to promote economic development in the key support towns.

5.2.2 At Section 4.5.2 of the Plan the projected retail floor space requirements are set out arising from the County Retail Strategy with an estimated additional area for convenience 2,492sq.m floorspace by 2023.

- Strategic Planning Policy SP-RP-2 Ensure that additional retail floorspace is provided in line with the projected requirements outlined in Table 4F and in the County Sligo Retail Planning Strategy 2016
- Strategic retail planning policies SP-RP03 Support the provision or extension of retail facilities in the key support retail centres (Tier 2) of Tubbercurry, Ballymote and Enniscrone. The location of new retail outlets with a floorspace greater than 500sq.m will be subject to the sequential approach. The Council will encourage site assembly to support convenience retail provisions in these key locations.
- Retail Planning Policy - P-RP-1 Assess all proposals for retail development in accordance with the requirements of the Retail Planning Guidelines (2012).
- P-RP-2 Generally require the retention of retail/service outlets (e.g. general food stores, newsagents, post offices, pharmacies, pubs, restaurants and cafés) within town and village centres, with the exception of commercial operations that are no longer viable or are more appropriately located elsewhere (e.g. petrol filling stations).
- P-RP-4 Ensure that new retail and service outlets are located within the central area of a town or village, where they can best serve the resident population.
- P-RP-5 Discourage inappropriate out-of-town shopping facilities that detract from the vitality, viability and/or character of existing town and village centres.
- P-RP-6 Facilitate the reuse of existing vacant retail outlets in towns and villages.
- P-RP-7 Promote initiatives or programmes to enhance the character and urban design quality of the Key Support Towns (Tubbercurry, Ballymote, Enniscrone) and Gateway Satellites (Ballysadare, Collooney, Coolaney, Grange and Strandhill), to ensure that they become and remain attractive for investment in commerce and retailing.

- P-RP-8 Ensure that all new retail and commercial development proposals respect the scale and character of the streetscape within which they are proposed (refer also to Section 12.1 Historic streetscapes in Chapter 12 and to Section 13.5.9 Shopfronts in Chapter 13 Development management standards).

5.2.3 Development Management Standards are set out at Chapter 13 where it is outlined that a Retail Impact Assessment (RIA) may be required as part of a planning application for retail developments, where the Planning Authority considers it necessary, particularly for proposals involving large-scale developments. In accordance with the Retail Planning Guidelines (2012), through the RIA, the applicant must address the potential of the proposed development to have the following effects:

- A. support the retail development strategy for Sligo City Centre, all the other centres designated in the County Retail Strategy, and not materially diminish the prospect of attracting private sector investment into one or more such centres;
- B. increase employment opportunities and promote economic regeneration;
- C. increase competition and attract further consumers to the area;
- D. respond to consumer demand without diminishing the range of activities and services that an urban centre can support;
- E. cause an adverse impact on Sligo City Centre or any other town/retail centre, either by itself or cumulatively with recent developments or other outstanding planning permissions (which have a realistic prospect of implementation), sufficient to undermine the quality of the centre or its wider function in the promotion and encouragement of the arts, culture, leisure.
- F. cause an increase in the number of vacant properties in the primary retail area that is likely to persist in the long term;
- G. ensure a high standard of access both by public transport, foot and private car so that the proposal is easily accessible by all sections of society;
- H. link effectively with Sligo City Centre or relevant town/retail centre, so that there is likely to be commercial synergy.

5.3 Sligo County Retail Strategy 2016-2023

5.3.1 Notes that Tubbercurry serves as the second largest centre for the County in terms of retail and related business and serves an expansive rural hinterland. At 3.0 on page 15 within its appraisal of Tubbercurry Town Centre it is noted that “There would appear to be some scope for additional convenience retail within the town, particularly aimed at providing additional opportunities for undertaking weekly shopping. An additional convenience retail facility would need to be sited in a location that could provide footfall along the main shopping streets.

5.3.2 A draft Local Area Plan for Tubbercurry was prepared in 2015 but was not adopted. It includes Strategic Aim SA-3 Pursue the enhancement of Tubbercurry’s town centre through the removal of dereliction, the refurbishment of Wolfe Tone Square and the creation of an urban streetscape along Circular Road.

OSO2 is to reserve land along the Maiden River for the creation of a linear park subject to Appropriate Assessment in accordance with Article 6 of the EU Habitats Directive.

Urban Design Objective UD07 seeks to “Encourage the redevelopment of the site currently occupied by warehouses on the north western side of Circular Road, preferably with mixed use activities with active frontage onto Circular Road. At 11.1.4 of the LAP it is noted that Circular Road Tubbercurry contains a significant amount of brownfield, vacant and underutilised land within its built-up core.

“Circular road is defined by the back walls, fences and mostly derelict outbuildings of properties which front onto Teeling Street on one side, and by vacant land and disjointed commercial warehouse buildings on the other. The road is lined with a combination of palisade fencing, random block walls and post-and-rail fencing. There is very limited active frontage onto the road and very little overlooking of public spaces. This is an area of the town which needs special attention and detailed planning in order to be effectively integrated into the existing urban environment..”

At 11.2.3 it is noted that Circular Road presents significant opportunities for redevelopment. In order to ensure that any redevelopment in this area results in a successful expansion and consolidation of the town centre, a master planning approach to development will be required. Piecemeal development of sites in this area will be discouraged. In the long term (e.g., after the construction of the N-17 bypass), the warehouse buildings, which sit on a maximum-visibility site, should ideally be replaced by commercial or mixed-use developments more suitable for a town centre. This would contribute to the transformation of Circular Road into a proper street, forming an integral part of the town centre. In the short term, before any redevelopment of the warehouse site and the development of the greenfields, a detailed examination of this area is required, in order to ascertain what is needed to improve its visual appearance. UDO-6 Promote the creation of a new streetscape along Circular Road by requiring new developments to provide active frontage onto this road. UDO-7 Encourage the redevelopment of the site currently occupied by warehouses on the north-western side of Circular Road, preferably with mixed-use activities with active frontage onto Circular Road.

5.4 Natural Heritage Designations

5.4.1 There are 10 European sites within 15km including:

Turloughmore (Sligo) SAC 2.2km.

River Moy SAC 3.9km. (The site is hydrologically connected via the Tubbercurry Stream)

Doocastle Turlough SAC 5.8km

Ox Mountains Bogs SAC 6.9km

Templehouse and Cloonacleigha Loughs SAC 7.1km

Cloonakillina Lough SAC 8.3km

Lough Nabrickeagh Bog SAC 9.6km

Flughany Bog SAC 9.8km

Unshin River SAC 10.7km

Lough Hoe Bog SAC 11.8km0

5.5 EIA Screening

Having regard to the nature of the existing and proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Brock McClure, Planning and Development Consultants on behalf of Surlis's SuperValu, Teeling Street, Tubbercurry. Grounds of appeal are summarised as follows:

- The current quantum of convenience floor space along with permitted development reg ref 19/505 on neighbouring site will have the ability to address increased demand for supermarkets to the surrounding area. There is insufficient demand for an additional supermarket in the settlement of Tubbercurry.
- Total convenience floor space within the defined catchment of Tubbercurry is based on figures in the Sligo County Strategy 2016-2023 estimated to be at 853sq.m net convenience floor space available. The existing SuperValu on Teeling street comprises a floor area of 929.sq.m which accounts for the vast majority of convenience floorspace provision. The existing SuperValu and permitted 19/505 would increase the overall convenience floorspace to 3,100sq.m.
- The additional capacity for retail supermarket will be addressed by the permitted SuperValu development Reg ref 19/505,. The proposal for an additional supermarket within 150m walk of the permitted supermarket will result in overprovision of this type of retail development in the area.
- Proposal will undermine existing retail in the town leading to an increase in vacancy.
- Proposal does not achieve the full potential of the site as envisaged within the draft local area plan not achieve the appropriate range of uses.

- Proposal would represent piecemeal development of the lands. Masterplanning approach is required as referenced in the LAP.
- Design inappropriate blank façade on a prominent site from the N18.
- Significant disruption to residents during construction and operational period.
- Vehicular entrance located closer to the existing dwelling resulting in increased disturbances and negative impact on residential amenity.
- Traffic safety issues not fully addressed.
- Shortfall of parking spaces and EV charging points.
- NIS findings regarding impact on Tubercurry Stream, otters, frogs and bats.
- Bat study not carried out in Spring as per best practice guidelines nor was a preliminary roost assessment carried out on buildings and trees within the site.
- Inaccuracies within the reports on file noted.
- Concerns arise regarding proposed cellular type attenuation and maintenance difficulties when it silts up over time.
- Development is premature pending adoption of the LAP.

6.2. Applicant Response

6.2.1 The response by The Planning Partnership, on behalf of the first party is summarised as follows:

- Question the validity of the appeal given that the appellant has secured permission for a supermarket on the adjoining site.
- As a recent promoter of a similar scale of retail development at a similar location it is somewhat incongruous to now become an opponent to such development.
- Certain elements of the grounds of appeal are inconsistent with position of the appellant and agent at the time of seeking permission 19/505.
- Comprehensive documentation provided with the planning application sets out a robust rationale for the principle and design and layout of the proposed development.

- Board is requested to consider dismissing the appeal in accordance with Section 138(1)(a) of the Planning and Development Acts 2000-2021 “where the Board is of the opinion that the appeal..... without substance or foundation or is made with the sole intention of delating the development...” or Section 188(1)(b) where “the Board is satisfied that, in the particular circumstances, the appeal or referral should not be further considered by it having regard to the nature of the appeal (including any question which in the Board’s opinion is raised by the appeal or referral) or any previous permission which in its opinion is relevant.”
- Tubercurry is designated as a retail centre in the Sligo Retail Hierarchy and as such the town is intended to provide a good level of retail facilities for the population of the town and its catchment.
- Extensive site search was carried out. RIA shows limited number of available suitable and viable locations for a foodstore.
- Road Safety Issues identified within the road safety audit are fully resolved. RSA team accepted designer feedback comments.
- Regarding parking two units will share the car park and the application of standards in full is less relevant as peak demands will not be coincidental.
- The proposal to fit ducting in addition to the provision of functioning EV spaces will allow future expansion of EV charging points in long term to respond to technological advances in EV charging equipment.
- The site is eminently available, suitable and viable. In conjunction with modern format supervalu store the proposal will considerably enhance the vitality and viability of the town and will generate significant economic spinoff.
- Proposal will assist in limiting the diversion of expenditure out of the catchment to larger towns and or to online methods.
- Proposal represents a timely and proportionate expansion of the discount foodstore sector which is not represented in the local retail market.
- The capacity figure within the retail strategy is to be treated as a minimum requirement not a floorspace cap.

- Appendant is seeking to restrict expansion of the convenience retail sector in the town to ensure that their existing or permitted operation is not interrupted, which is wholly inappropriate and at odds with local and national planning policy.
- Proposal involves the entire site and in no way piecemeal or partial.
- Layout and design will be a positive addition to Circular road, providing animation, activity, and enclosure of the street.
- No basis to deem the development premature. There is no imminent timeline for preparation and adoption of new plan for the town nor any indication that there would be any change of approach in terms of the site context.
- Planning Authority have made it clear and deliberate determination that circular road is to be an urban street and integral part of the town centre which the scheme respects.
- During the course of application 19/505 application indicated that the existing Supervalu shop on Teeling Street would be repurposed to remote hub working space with residential units overhead.
- Proposal will broaden the retail offer in the town making it more self-sufficient.
- Proposal will result in reversal of current leakage. Previous Board decisions 307861 Claremorris Co Mayo and 248151 Aldi Gregeunamanagh Co Kilkenny relevant precedent.
- No evidence to support a case of negative impact on existing town centre and vacancy. High vacancy rate should not be a barrier to new development as explored in previous Board decisions ABP306499 Tuam and 248255 Finnisklin Road Sligo 302449 Fermoy 207105 Longford.
- Proposal is for mix of uses, lidl store and repurposed retail warehousing.
- Apparent typo in services report noted.
- NIS findings are in no way negative.
- Appellant has raised a number of relatively spurious grounds in relation to services and environmental issues, none of which withstand scrutiny and should be dismissed by the board.

- Note by Stephen Reid consulting confirms that exit visibility sightlines will be provided in accordance with the required national standard as set out in the Design Manual for Urban Roads and Streets (DMURS) of 49mx2.4m setback for a 40kph speed limit.

6.3. Planning Authority Response

6.3.1 The submission of the Planning Authority refers to the Planner's report and other internal reports. No additional information has been submitted as part of the appeal that would alter the Planning Authority's decision and it is still considered that the proposal would be suitable at this location and is consistent with the policies and other relevant provisions of the Sligo County Development Plan 2017-2023.

6.4. Observations

None

7.0 Assessment

7.1 The first party has drawn attention to the possibility based on the fact that the appellants are operators of the Supervalu in Tubbercurry and who also have secured permission for a retail supermarket development on the adjacent site (Planning Ref 19/505 granted 23 February 2021), that the appeal is made on anti-competitive grounds. The first party thus seeks the dismissal of the appeal in accordance with the provisions of Section 138 of the Planning and Development Act 2000. The issue of the validity of the appeal is a matter for the Board to determine. I consider that notwithstanding the fact that the appeal submission is made by potential competitors, the appellants have a right to appeal the decision and have stated planning grounds which form the basis of that appeal. Therefore, I propose to confine my assessment to those planning issues raised in the appeal. From my review of the file, all relevant documents and inspection of the site and its environs and having regard to national,

regional and local policies relating to retail development, I consider that the main issues for consideration in this appeal to be:

- Planning Policy Retail Impact
- Design and layout and impact on the amenities of the area
- Servicing & Other Matters
- Appropriate Assessment

7.2 Planning Policy / Retail Impact

7.2.1 One of the key policy objectives in terms of retail planning as set out in the national planning guidance and reflected in regional planning guidelines and strategies and through to local development plan policy is the promotion of city / town centre vitality through a sequential approach to development. The primacy of the town centre is a well-established pillar in retail planning terms.

7.2.2 Tubbercurry is identified within the Sligo County Development Plan as a key support town and Tier 2 settlement in the retail hierarchy. The strategic planning context SP-RP-3 supports the provision or extension of retail facilities in the key support retail centres. The Sligo Retail Strategy 2016-2023 identifies capacity in Tubbercurry for additional convenience retail particularly aimed at providing additional opportunities for undertaking weekly shopping. The retail strategy outlines that outside the gateway the requirement for additional convenience retail floorspace is estimated to be 1,270sq.m net up to 2023.

7.2.3 I note the retail impact statement submitted with the application in its quantitative assessment indicates that the existing level of floorspace is currently not matching the expenditure capacity of the catchment area. The catchment area is defined based on a drivetime of 20 minutes adjusted to take account of other towns where overlapping occurs (eg Balymote). The Retail Impact Assessment asserts that the shortfall in existing and extant floorspace relative to existing and future expenditure

capacity indicates a pressing need for expansion of the convenience sector. The assessment takes account of the permitted Supervalu Store and whilst it is acknowledged that the current proposal (1,292sq.m net additional convenience floorspace) would exceed the minimum requirement in the short term (580-765m² up to 2024) this requirement would grow over the medium to long term with any overprovision being absorbed relatively quickly. As regards trade diversion it is asserted that the proposal will not generate a material level of retail impact on centres within the catchment or wider area and the proposal will reverse significant leakage of expenditure particularly to Ballina and Sligo. It is asserted that the proposal will enable Tubbercurry to meet its role and function as a key support town and in conjunction with the permitted Supervalu development will substantially enhance the viability and vitality of the town.

7.2.4 I consider that the RIA demonstrates a justification for the proposed development and that the proposal will complement existing and permitted retailing provide consumer choice and competition and will assist in the prevention of leakage outside the town. On the basis of the analysis I consider that an increase in retail floorspace as proposed is justified.

7.2.5 In terms of site selection and the sequential approach the first party asserts that the site is within the core retail area pointing to the mixed use zoning proposed within the draft Tubbercurry Local Area Plan and proximity to the permitted Supervalu supermarket site. A number of alternative locations were identified and examined. Two preferred alternative sites examined were identified as site 1 (Site of permitted Supervalu) and site 12. The latter was discounted on basis of it being unduly constrained in size, in multiple ownership and traversed by a main sewer therefore deemed not suitable, available, or viable. On this basis it is asserted that the proposed site satisfies the sequential test.

7.2.6 I note that the Retail Planning Guidelines espouse, in the context of the sequential approach, that flexibility and realism apply on the part of both retail developers and planning authorities, to ensure that the various forms of retailing are developed in the most appropriate locations. Having regard to the brownfield nature of the appeal site, the established use, proximity to the town centre and accessibility from a vehicular

and pedestrian perspective I would concur that the site provides a strategic and convenient location for the nature and format of development proposed. The location will in my view provide for multi-purpose shopping trips and commercial synergy will occur. I further note that there is clear support of the Council's planning section for the proposal. In my view the applicant has demonstrated compliance with planning policy and the proposal is acceptable in terms of its retail impact. On the question of prematurity pending adoption of the local Area Plan, I consider that it would be unreasonable to draw such a conclusion as there is no apparent timeline for adoption of the local area plan.

7.3 Design and Layout and Impact on the amenities of the area.

7.3.1 On the issue of design and layout the third party appellant asserts that the proposal represents a piecemeal approach, will provide an inappropriate blank façade to the streetscape and fails to provide an appropriate mix of uses thereby resulting in a missed opportunity to rejuvenate the area. I note that the proposal provides for retention and relocation of the existing builder's providers store within the site and includes upgrading of existing units 5-7 for this use. The proposed convenience retail outlet will provide a complementary use. The design approach for the foodstore building follows the standardised format and layout demonstrating the corporate identity of the proposed store. I consider that given the brownfield context of the site the conversion and redevelopment rather than vacancy or abandonment is in the interest of proper planning and sustainable development. I note the short lifespan of the existing buildings now proposed for demolition which were subject to a grant of permission in 2001, which gives rise to questions regarding sustainability, energy and resource use. However, the buildings are of no architectural merit and the principle of demolition is accepted by all parties, and indeed actively encouraged within the draft local area plan. Having considered the proposed design and layout in its detail I concur with the first party that the proposal will provide improved animation and enclosure to the street. Improvements to the public realm in the redevelopment of the site will in my view improve the vibrancy and vitality of this area. I consider that soft and hard landscaping and boundary treatment should address and soften the visual impact. In my view the proposal will visually improve this site. I do not consider

that the proposal would constitute piecemeal development given that it addresses the overall site.

7.4 Traffic, Servicing and Other Matters

7.4.1 As regards traffic and transport the third party appellant notes that the relocation of the entrance on the site has the potential to increase impact on the adjacent dwelling to the east. I note that to mitigate noise and other disturbance it is proposed to provide additional landscaping and secure boundary treatment. I consider that given the central location and having regard to mitigation proposed no undue impacts will arise. As regards visibility at the entrance I consider that the traffic safety issues raised within the road safety audit were responded to and addressed and these responses were accepted by the audit team. I consider that based on the details submitted the proposal is appropriate from a traffic safety perspective.

7.4.2 On the question of adequacy of parking and the provision of EV charging points I note that the applicant proposes to provide 4 functioning EV spaces in addition to providing ducting for future phased expansion of the EV charging provision to enable the installation of newer technological advances in EV charging equipment to meet the demand as it arises and to avoid redundancy of underutilised equipment. As regards the overall level of parking provision I note that following response to further information request regarding an 8% shortfall below development plan standards the planning authority deemed the provision to be adequate having regard to the dual usage of parking where peak demands for the two units will not be co-incidental. I consider that this is a reasonable argument and given the town centre location the theoretical shortfall is not material. Cycle parking provision is provided (28 spaces). On the basis of details submitted, I consider that it has been shown that the proposed development is acceptable in terms of traffic and transport.

7.4.3 As regards impact on ecology the third party appellant questions the adequacy of assessment in relation to bats. I note that a Bat report by Inis Environmental Consultants Ltd, July 2021 was submitted with the application. It notes that low level of bat activity was recorded in both summer and autumn survey periods at both surveyed locations on the site. It is asserted that based on the unsuitability of the

development works area for roosting bats and the low level of activity additional surveys will not provide any useful baseline information. Analysis of the static detector results offers evidence that bats are not using the site for roosting but are commuting through. It is recommended that a bat ecologist is consulted during detailed lighting design. The report notes no limitations within the surveys and expresses confidence that the surveys provide an accurate evaluation of bat activity at the site.

7.5 Appropriate Assessment

7.5.1 The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, Section 177U and 177V of the Planning and development Act 2000 (as amended) are considered fully in this section. The areas in this section are as follows:

Compliance with Article 6(3) of the EU Habitats Directive

Screening the need for appropriate assessment

The Natura Impact Statement and associated documents

Appropriate assessment of implications of the proposed development on the integrity of each European site.

7.5.2 Compliance with Article 6(3) of the EU Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal

will not adversely affect the integrity of the European site before consent can be given.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.5.3 Appropriate Assessment - Screening

The applicant submitted a Natura Impact Statement by Inís Environmental Consultants Ltd with the application to the planning authority. The first part of this NIS included a screening for appropriate assessment. The document provides a description of the proposed development, identifies European Sites within a possible zone of influence of the development, identifies potential pathways and impacts, and assesses the significance of potential impacts. At the screening stage, the applicant determined that, without incorporation of mitigation measures, “... *significant impacts upon the River Moy SAC (Site Code 002298) cannot be ruled out.*”

Having reviewed the NIS, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

Having reviewed the NIS and additional submissions to the planning authority, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

Description of Development

The applicant provides a description of the project in Section 2.1.1 of the AA Screening Report. In summary, the proposal comprises the demolition of existing units 1 and 2-4 and associated and ancillary site clearance works, change of use and amalgamation of unit 5-7 to builder’s providers and retail warehousing and construction of a single storey licensed discount foodstore and ancillary works.

European Sites

The development site is not located in or immediately adjacent to a European Site. The closest European site is within 2.2km of the proposed development. The following are the European sites within 15km of the site within a possible zone of influence. Where a possible connection between the development and a European Site has been identified these sites are examined in more detail.

Turloughmore Sligo SAC 2.2km

River Moy SAC 3.9km

Doocastle Turlough SAC 5.8km

Ox Mountains Bogs SAC 6.9km

Templehouse and Cloonagleigha Loughs SAC 7.1km

Clooonakillina Lough SAC 8.3km

Lough Nacbrickeagh Bog SAC 9.6km

Flughany Bog SAC 9.8km

Unshin River SAC 10.7km

Lough Hoe Bog SAC 11.8km

Section 4.3 of the applicant's screening provides details of the Special Conservation Interests, Qualifying Interest and Conservation Objectives of the European sites.

Identification of Likely Effects

The site of the proposed development comprises a brownfield site in the Tubbercurry. The proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. The site of the proposed development is not located in any European site. The site of the proposed development does not have habitat to support the Special Conservation Interests of any Special Protection Area.

The range of activities arising from the construction and operation of the proposed development that would possibly have any potential effects on European sites would

relate to silt and surface water discharges and potential spread of invasive species at the construction stage.

As regards In-combination Effects there are no known development projects or plans with which significant in-combination effects would arise.

Mitigation Measures

No measures designed or intended to avoid or reduce any harmful effects of the proposed development on a European site have been relied upon in this screening exercise.

Screening Determination

The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that there is no likelihood of significant effects to nine sites within the zone of influence. The potential for significant effects to European Site, the River Moy SAC, cannot be excluded due to connectivity to the proposed works via the Tubbercurry Stream 010 river water body. As significant effects are not likely as a result of the operational phase of the development the operational phase has been scoped out. As the project individually or in combination with other plans or projects would be likely to give rise to significant effects on the River Moy SAC, in view of their Conservation Objectives, and Appropriate Assessment is therefore required.

This determination is based on the following:

- The nature and extent of the proposed development, with emphasis placed on surface water discharges,
- The proximity to European sites, and
- The known pathways between the site and the European sites.

7.5.5 The Natura Impact Statement

Appropriate Assessment

The applicant's Stage 2 Natura Impact Statement by Inis Environmental July 2021 sets out an assessment of potential adverse effects on River Moy SAC sets out mitigation measures to address potential adverse effects arising from impairment to water quality at the construction phase, the spread of invasive species and considered in-combination effects. The conclusion of the NIS was as follows:

"It is determined that, following the implementation of mitigation measures for the protection of designated qualifying interests of the River Moy SAC against effects on water quality and spread of IAPs the effects of the proposed development at Tubbercurry, Co Sligo are unlikely or insignificant. Taking account of the mitigation proposed for the avoidance of significant effects on the QI of relevant European Sites hydrologically connected with the proposed development (i.e River Moy SAC), it is concluded that the proposed development at Tubbercurry, Co Sligo as described will not result in direct indirect or cumulative significant effects.

It is clear that given the application of prescribed protective measures for the avoidance of impacts and the implementation of the required mitigation measures, the proposed development at Tubbercurry, Co Sligo will not give rise to significant effects on the integrity of any of the identified European Sites evaluated herein"

I note the considerations of the local authority Planner within the report indicating that taking the NIS into account the proposed project alone, or in combination with other plans and/or projects will not give rise to significant adverse effects on the integrity of the SAC as long as mitigation measures are implemented in full.

Having reviewed the documents, submissions, reports and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the River Moy SAC.

7.5.6 Appropriate Assessment of Implications of the Proposed Development

This assessment considers all aspects of the proposal which could result in significant effects. Mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The assessment has had due regard to the

applicant's submitted AA Screening, the Natura Impact Statement, and the reports received by the planning authority and the Board.

The following guidance is adhered to in the assessment:

DoEHLG (2009) Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities.

EC (2002) Assessment of plans and projects significantly affecting Natura 2002 sites. Methodological guidance on the provisions of Articles 6(3) and 6(4) of the Habitats Directive 92/43/EC.

EC (2018) Managing Natura 2000 sites.

European Site – The River Moy SAC is subject to Appropriate Assessment.
Relevant Aspects of the Proposed Development

The main aspects of the proposed development that could adversely affect the conservation objectives of the European site are potential indirect effects by runoff or fuel spillages at the construction stage via watercourses and spread of invasive species.

Pathways for significant effects on the Integrity of the qualifying habitats are identified in relation to

Active Raised Bogs [7110],

Degraded Raised Bogs still capable of natural regeneration [7120],

depressions on peat substrates of the Rhynchosporion [7150],

Alkaline Fens [7230] Alluvia;

Forests with *Alnus glutinosa* and *fraxinus excelsior* (alno-Padion, Alnion incanae, Salicon ablae) [91EO],

The likelihood of significant effects arises from contamination through the release of toxic substances, spread of invasive species and siltation through hydrological pathways.

In relation to the

White Clawed Crayfish (*Austropotamobius pallipes*)[1092],

Sea Lamprey (*Petromyzon marinus*)[1095],

Brook Lamprey (*Lampetra planeri*) [1096],

Salmon (*Salmo salar*) [1106] and

Otter (*Lutra lutra*) [1355],

the potential for contamination of water bodies from the proposed development gives rise to possibility of indirect effects related to potential contamination of the food chain and reduction of suitable habitat from deterioration of adjacent habitats within the riparian corridor.

Potentially Significant Cumulative Effects

There are no known development projects or plans with which significant in-combination effects would arise.

Mitigation

The applicant's NIS details the range of mitigation measures intended to be employed as part of the proposed development. These include the provision of a Construction Environmental Management Plan with specific avoidance of siltation /contamination of the Tubbercurry river water body and measures to prevent the introduction establishment and spread of invasive species. Much of what is being proposed constitutes best practice construction and operation methodologies.

In my opinion, the above constitute suitable, robust, comprehensive, and necessary measures to avoid any adverse impacts on the integrity of the River Moy SAC

Integrity Test

If the proposed mitigation measures are implemented in full, it is expected that significant effects would not result for the qualifying features of the River Moy SAC.

Following my appropriate assessment of the proposed development and with due regard to consideration of the proposed mitigation measures, I am able to ascertain with confidence that the proposed development would not adversely affect the integrity of the River Moy SAC in view of the Conservation Objectives. This

conclusion is drawn on a complete assessment of all implications of the proposed development alone and in combination with other plans and projects.

7.5.8 Appropriate Assessment Conclusion

The proposed development has been considered in light of the assessment requirements of the Planning and Development Act 2000 as amended.

Having carried out screening for appropriate assessment of the project, it was concluded that it may have a significant effect on the River Moy SAC. Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely effect the integrity of the River Moy SAC, or any other European site, in view of the sites' Conservation Objectives.

The conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
- Assessment of in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the River Moy SAC.

8.0 Recommendation

I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

Reasons and Considerations

Having regard to the Retail Planning Guidelines for Planning Authorities, published by the Department of the Environment Community and Local Government April 2012, the provisions of the Sligo County Development Plan 2017-2023, the location

of the site and proximity and linkages to the town centre of Tubbercurry, it is considered that the proposed development would not impact adversely on the vitality or viability of the town centre, would be acceptable in terms of pedestrian and traffic safety and convenience, would represent an appropriate design response to the site's context, would not seriously injure the visual amenities of the area, and would otherwise be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 11th day of October 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Details of all external signage shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating; and
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes of perimeter walls.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual and residential amenity.

5. Prior to the commencement of development, the following shall be submitted to, and agreed in writing, with the planning authority:
- (a) operational traffic management provisions, inclusive of vehicular entrance controls, footpath connectivity, cycle access provisions, traffic calming measures, and road signage; and
 - (b) on-site parking provisions, including layout and finishes to parking.

Reason: In the interest of traffic safety and orderly development

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and traffic management measures, inclusive of HGV delivery routes, construction parking, and storage areas.

Reason: In the interests of public safety and residential amenity.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Bríd Maxwell
Planning Inspector
12th October 2022